

2/ Dept. of Treasury & Economic
3/ AWARDS

OF THE

ARBITRATORS

ON THE

UNSETTLED ACCOUNTS

BETWEEN THE

DOMINION OF CANADA

AND THE

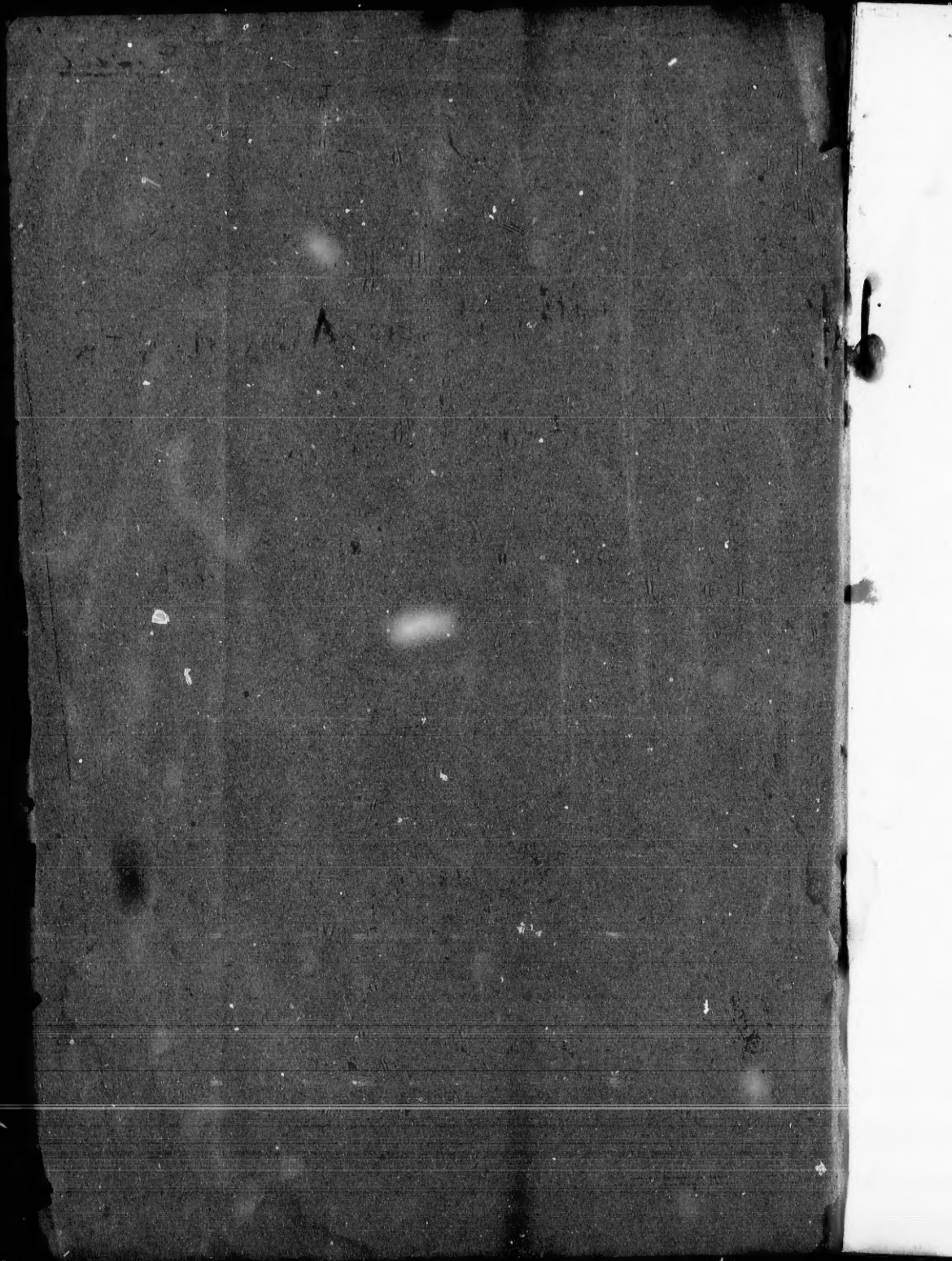
PROVINCES OF ONTARIO AND QUEBEC.

PRINTED BY ORDER OF

THE LEGISLATIVE ASSEMBLY OF ONTARIO.



TORONTO:
WARWICK BROS & RUTTER, PRINTERS.
1900.



See next page.

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THE AWARDS OF THE BOARD OF ARBITRATORS

TO SETTLE THE ACCOUNTS BETWEEN THE DOMINION OF CANADA, THE PROVINCE
OF CANADA AND THE PROVINCES OF ONTARIO AND QUEBEC, AND
ALL THE AWARDS UP TO 21ST OCTOBER, 1899.

THE FIRST AWARD.

ON INTEREST QUESTION.

2nd November, 1893.

To all whom these Presents shall come :

The Honourable John Alexander Boyd, of the city of Toronto and province of Ontario, Chancellor of said province; the Honourable George Wheelock Burbidge, of the city of Ottawa, in the said province, Judge of the Exchequer Court of Canada; and the Honourable Louis Napoléon Casault, of the city of Quebec, in the province of Quebec, Judge of the Superior Court of the said province of Quebec, SEND GREETING :

Whereas it was, in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain accounts which had arisen or which might arise in the settlement of accounts between the Dominion of Canada and the provinces of Ontario and Quebec, both jointly and severally, and between the two provinces, concerning which no agreement had heretofore been arrived at, the Governor General in Council might unite with the governments of the provinces of Ontario and Quebec in the appointment of three arbitrators being judges, to whom should be referred such questions as the Governor General and Lieutenant-Governors of the provinces should agree to submit;

And whereas we, the undersigned, John Alexander Boyd, George Wheelock Burbidge, Louis Napoléon Casault have been duly appointed under the said Acts and have taken upon ourselves the burdens thereof;

And whereas it was provided in and by the said Act, that such Arbitrators or any two of them should have power to make one or more awards, and to do so from time to time,

And whereas certain questions respecting the allowance of interest, and other matters incident to the taking of such accounts, have been submitted to such arbitrators, and they have heard the parties thereto;

Now, therefore, the said arbitrators exercising their authority to make a partial award at this time respecting the same, do award, order and adjudge in and upon the premises as follows, that is to say :

1. That from the 1st of July, 1867, to the passing of the Act of the Parliament of Canada, 36 Victoria, chapter 30, the provinces of Ontario and Quebec shall be credited with subsidy half-yearly in advance, deducting therefrom at the end of each half year their respective shares of interest as determined by the award of September 3rd, 1870, at the rate of five per centum *per annum*, on the excess of debt of the province of Canada, over \$62,500,000, as actually ascertained

in amount at each period, the first of such deductions to be made on the 1st day of January, 1868, and the others on the 1st day of July and January thereafter, down to and including the 1st day of January, 1873.

2. That in the province of Canada account, there shall be credited on the 23rd day of May, 1873, the sum of \$10,506,088.84, remitted by the said Act, and thereafter the subsidy shall be credited in the separate accounts of Ontario and Quebec without any such deduction.

3. That on and from the 1st of July, 1884, the provinces of Ontario and Quebec shall be credited with the additional subsidy granted by the Act, 47 Victoria, chapter 4, in the proportion determined for the excess of debt by the award herein before mentioned.

4. That each province shall be credited as of the 1st of July, 1867, with its share of \$200,000 representing the purchase money of the library and other personal property mentioned in the 14th paragraph of the said award.

5. That the "trust funds" shall be treated as intact and unimpaired, and interest thereon at the rate of five per centum, carried half-yearly into the separate accounts of Ontario and Quebec.

6. That the province of Canada account shall be made up at simple interest at the rate of five per centum per annum, as has been agreed upon between the parties.

7. That in the separate accounts of Ontario and Quebec the said provinces shall respectively be allowed simple interest on any balance from time to time existing in their favour, at the rate of five per centum per annum, except where some other rate has been expressly agreed to.

8. That the question as to whether or not the Dominion shall be allowed simple interest at the rate of five per centum per annum on any balance that may from time to time be found to exist in its favour, in the separate accounts of Ontario and Quebec, be reserved for further argument.

In respect of the matters mentioned in paragraphs 1, 2 and 3, we have proceeded upon our view of a disputed question of law.

IN WITNESS WHEREOF, WE, the said John Alexander Boyd, George Wheelock Burbidge, and Louis Napoléon Casault, have hereunto set our hands this 27th day of November, A.D. 1893.

J. A. BOYD,
GEO. W. BURBIDGE,
L. N. CASAULT.

Confirmed on appeal by Supreme Court, 24 S. C. R. 498.

THE SECOND AWARD.

INTEREST ON OVERPAYMENTS BY THE DOMINION.

31st August, 1894.

To all to whom these Presents shall come :

The Honourable John Alexander Boyd, of the city of Toronto and province of Ontario, Chancellor of the said province; the Honourable George Wheelock Burbidge, of the city of Ottawa, in the said province, Judge of the Exchequer Court of Canada; and the Honourable Sir Louis Napoléon Casault, of the city of Quebec, in the province of Quebec, Judge of the Superior Court of the said province of Quebec, SEND GREETING:

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Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain accounts which had arisen or which might arise in the settlement of accounts between the Dominion of Canada and the provinces of Ontario and Quebec, both jointly and severally, and between the two provinces, concerning which no agreement had theretofore been arrived at, the Governor General in Council might unite with the governments of the provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom should be referred such questions as the Governor General and Lieutenant-Governors of the provinces should agree to submit:

And whereas we, the undersigned, John Alexander Boyd, George Wheelock Burbidge, Sir Louis Napoléon Casault, have been duly appointed under the said Acts and have taken upon ourselves the burdens thereof;

And whereas it was provided in and by the said Acts, that such arbitrators or any two of them should have power to make one or more awards, and to do so from time to time:

And whereas certain questions respecting the allowance of interest to the Dominion, and the accounts relating to the Montreal Turnpike Trust and Debentures have been submitted to such arbitrators, and they have heard the parties thereto:

Now, therefore, the said arbitrators exercising their authority to make a separate award at this time respecting the said matters, do award, order and adjudge in and upon the premises as follows, that is to say:

1. That in respect of the separate accounts of both provinces, the Dominion be allowed interest at five per centum per annum on all sums included in any balances in its favour that represent transfers from the province of Canada account, or payments made by the Dominion under any liability of the province of Canada to which it succeeded.

2. That in respect to the Quebec account, the Dominion be allowed interest at the rate of five per centum per annum on the two advances of \$500,000 and \$125,000, whenever it happens that there is a balance in favour of the Dominion of \$625,000 or more, and whenever such balance is less than \$625,000 then on such balance.

3. That in respect of the Ontario account, the Dominion be allowed interest at the rate of five per centum per annum on the \$936,729.33 transferred to the Common School Fund, and at the rate of four per centum on the \$500,000 advanced at four per cent, Dominion stock, whenever it happens that there is a balance in favour of the Dominion of \$1,436,729.33 or more, and whenever such balance is less than \$1,436,729.33, then interest shall be allowed to the Dominion at the rate of four per centum per annum on such balance to the amount of \$500,000, and at the rate of five per centum per annum on any sum in excess of the amount of \$500,000.

4. That all charges made in the accounts of the Dominion against the Province of Quebec for principal or interest on the Montreal Turnpike Trust Debentures be eliminated from the same.

In witness whereof, we, the said John Alexander Boyd, George Wheelock Burbidge, and Louis Napoléon Casault, have hereunto set our hands this thirty-first day of August, A.D., 1894.

J. A. BOYD
GEO. W. BURBIDGE,
L. N. CASUALT.

In so far as concerns \$792,750, part of the above mentioned sum of \$936,729.33, I dissent from the above award, as I think no interest should be charged against Ontario in respect thereof.

J. A. BOYD.

THE THIRD AWARD.

ON INDIAN, HURON AND SUPERIOR TREATIES—ON IMMIGRATION EXPENDITURE— AND ON MUNICIPALITIES' FUND DEFALCATION.

13th February, 1895.

To all to whom these Presents shall come :

The Honourable John Alexander Boyd, of the city of Toronto, and the Province of Ontario, Chancellor of the said Province; the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the said Province of Quebec; and the Honourable George Wheelock Burbidge, of the city of Ottawa, in the said Province, Judge of the Exchequer Court of Canada, SEND GREETING.

Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain questions and accounts which had arisen or might arise in the settlement of accounts between the Dominion of Canada and the Province of Ontario and Quebec, both jointly and severally, and between the two Provinces, concerning which no agreement had theretofore been arrived at, the Governor-General-in-Council might unite with the Governments of the Provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom would be referred such questions as the Governor-General and Lieutenant-Governors of the Provinces should agree to submit;

And whereas we, the undersigned John Alexander Boyd, Sir Louis Napoléon Casault, and George Wheelock Burbidge, have been duly appointed under the said Acts and have taken upon ourselves the burdens thereof;

And whereas it was provided in and by the said Acts that such arbitrators, or any two of them, should have power to make one or more awards, and to do so from time to time;

And whereas certain questions respecting a claim made by the Dominion of Canada against the Provinces of Ontario and Quebec in respect of Indian claims arising out of the Robinson Treaties, and respecting a certain other claim made by the Dominion of Canada against the Province of Ontario, for certain immigration expenditure, and a certain other claim made by the Province of Ontario against the Dominion of Canada in the first instance, and by notice to the Province of Quebec, against that Province, for the recovery of a balance of the Upper Canada Municipalities' Fund, have been submitted to such arbitrators, and they have heard the parties thereto;

Now, therefore, the said arbitrators exercising their authority to make a separate award at this time respecting the said matters, do award, order and adjudge in and upon the premises as follows, that is to say:

I. In respect of the claim made by the Dominion of Canada against the Provinces of Ontario and Quebec in reference to the Indian claims arising under the Robinson Treaties.

1. That if in any year since the treaties in question were entered into, the territory thereby ceded produced an amount which would have enabled the Gov-

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ernment, without incurring loss, to pay the increased annuities thereby secured to the Indian tribes mentioned therein, then such tribes were entitled to such increase not exceeding \$4 for each individual.

2. That the total amount of annuities to be paid under each treaty is, in such case to be ascertained by reference to the number of Indians from time to time belonging to the tribes entitled to the benefit of the treaties. That is, that in case of an increase in the number of Indians beyond the number named in such treaties, the annuities, if the revenues derived from the ceded territory permitted, without incurring loss, were to be equal to a sum that would provide \$4 for each Indian of the tribes entitled.

3. That any excess of revenue in any given year may not be used to give the increased annuity in a former year in which an increased annuity could not have been paid without loss, but that any such excess or balance of revenue over expenditure in hand at the commencement of any given year should be carried forward into the account of that year.

4. That any liability to pay the increased annuity in any year before the union was a debt or liability which devolved upon Canada under the 111th section of the British North America Act, 1867, and that this is one of the matters to be taken into account in ascertaining the excess of debt for which Ontario and Quebec are conjointly liable to Canada under the 112th section of the Act; and that Ontario and Quebec have not in respect of any such liability been discharged by reason of the capitalization of the fixed annuities, or because of anything in the Act of 1873, 36 Victoria, chapter 30.

5. That interest is not recoverable upon any arrears of such annuities.

6. That the ceded territory mentioned became the property of Ontario under the 109th section of the British North America Act, 1867, subject to a trust to pay the increased annuities on the happening, after the union, of the event on which such payment depended, and to the interest of the Indians therein to be so paid. That the ultimate burden of making provision for the payment of the increased annuities in question in such an event falls upon the Province of Ontario; and that this burden has not been in any way affected or discharged.

7. That interest is not recoverable on the arrears of such annuities accruing after the union, and not paid by the Dominion to the tribes of Indians entitled.

8. That in respect to the matters hereinbefore dealt with the arbitrators have proceeded upon their view of disputed questions of law.

9. That as respects the increased annuities which have been paid by the Dominion to the Indians since the union, any payments properly made are to be charged against the Province of Ontario in the Province of Ontario account as of the date of payment by the Dominion to the Indians, and so fall within and be affected by our previous ruling as to interest on that account.

That Mr. Chancellor Boyd dissents from so much of the proposition contained in this paragraph as relates to the date at which such payment should be charged.

II. With respect to the claim made by the Dominion of Canada against the Province of Ontario for certain immigration expenditure.

1. That the Government of Canada recover against the Province of Ontario the amount claimed for the year 1878, but that in reference to the claim made in respect of the years 1879 and 1880, the Province of Ontario be discharged and that this award is without prejudice to any question as to whether or not the Province has paid more than was actually due in any year.

III. With respect to the claim made by the Province of Ontario against the Dominion of Canada, and by notice against the Province of Quebec for the recovery of a balance on the Upper Canada Municipalities' Fund.

1. That the Province do recover against the Dominion \$15,732.76, parcel of the sum of \$21,488.74, claimed which said sum of \$15,732.76 is to be credited to the Province of Ontario in the Province of Ontario account as of the date of the 1st of July, 1872; and, that as to the balance of the said claim, amounting to \$5,755.98, the Dominion be discharged, and that the Province of Quebec be discharged in respect of the whole claim.

In witness whereof we, the said John Alexander Boyd, Sir Louis Napoléon Casault and George Wheelock Burbidge, have hereunto set our hands and seals this thirteenth day of February, A.D. 1895.

J. A. BOYD,
L. N. CASAULT,
GEO. W. BURBIDGE.

Witness : L. A. AUDETTE.

(The award was published and decision given on the 14th February, 1895. Appeal to Supreme Court by Ontario varied the award. See 25 S.C.R. 434.—

Re INDIAN CLAIMS ARISING OUT OF THE HURON AND SUPERIOR "ROBINSON TREATIES."

The Supreme Court of Canada by its judgment on 9th December, 1895, did order as follows :

"That the said Award should be varied by substituting for paragraph 6, the following :

"The ceded territory mentioned became the property of Ontario under the 109th section of the British North America Act, 1867, absolutely, and free from any trust charge or lien in respect of any of the annuities, as well those presently payable as those deferred and agreed to be paid in augmentation of the original annuities upon the condition in the treaties mentioned, and further by striking out the 7th and 9th paragraph of the said award."

Appealed to Privy Council and appeal dismissed 1897, app. case 199, (9 December, 1896).

THE FOURTH AWARD.

CLAIM AGAINST ONTARIO FOR COUPONS COLLECTED.

To all to whom these Presents shall come.

26th March, 1895.

The Honourable John Alexander Boyd, of the City of Toronto, and Province of Ontario, Chancellor of the said Province, the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the said Province of Quebec, and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said Province of Ontario, Judge of the Exchequer Court of Canada.—SEND GREETING.

Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain questions and accounts which had arisen or which might arise in the settlement of accounts between the Dominion of Canada and the Pro-

vinces of Ontario and Quebec, both jointly and severally, and between the two Provinces, concerning which no agreement had theretofore been arrived at, the Governor-General in Council might unite with the Government of the Provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom should be referred such questions as the Governor-General and Lieutenant-Governors of the said Provinces should agree to submit.

And whereas we, the undersigned John Alexander Boyd, Sir Louis Napoléon Casault and George Wheelock Burbidge have been duly appointed under the said Acts and have taken upon ourselves the burdens thereof.

And whereas it was provided in and by the said Acts that such arbitrators or any two of them should have power to make one or more awards, and to do so from time to time.

And whereas certain questions relative to a claim made by the Dominion of Canada against the Province of Ontario in respect of certain Coupons on Bonds issued by the City of Hamilton as mentioned in the statement of Claim and Answer thereto filed herein, have been submitted to such arbitrators, and they have heard the parties thereto, and also what was alleged in respect thereof by the Counsel for the Province of Quebec.

Now therefore, the said arbitrators, exercising their authority to make a separate award at this time respecting the said matter, do award, order and adjudge in and upon the premises as follows, that is to say:—

That the Dominion of Canada do, in respect of such claim, recover against the Province of Ontario the sum of sixteen thousand seven hundred and eighty-one dollars and thirty-five cents (\$16,781.35), and that the said amount be charged against the Province of Ontario and credited to the Dominion of Canada, in the Province of Ontario account, as of thirty-first of December, one thousand eight hundred and ninety-two.

In witness whereof, we, the said John Alexander Boyd, Sir Louis Napoléon Casault and George Wheelock Burbidge have hereunto set our hands and seals this twenty-sixth day of March, A.D. 1895.

(Sgd) J. A. BOYD, (Seal)
 " L. N. CASAULT, "
 " GEO. W. BURBIDGE, "

(Witness),
 (Sgd) L. A. AUDETTE, (Seal).

FIFTH AWARD.

THE CLAIM OF THE MISSISSAGUA INDIANS OF THE CREDIT; WIDOWS' PENSIONS AND DELAWARE INDIANS.

To all to whom these Presents shall come :

13th Nov., 1895.

The Honourable John Alexander Boyd, of the City of Toronto, and Province of Ontario, Chancellor of the said Province, the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of said Province of Quebec, and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said Province of Ontario, Judge of the Exchequer Court of Canada, SEND GREETING.

Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain questions and accounts which had arisen or which might

arise in the settlement of accounts between the Dominion of Canada and the Provinces of Ontario and Quebec, both conjointly and severally, and between the two Provinces, concerning which no agreement had theretofore been arrived at, the Governor-General-in-Council might unite with the Governments of the Provinces of Ontario and Quebec in the appointment of three arbitrators, being Lieutnant-Governors of the said Provinces shall agree to submit.

And whereas we, the undersigned, John Alexander Boyd, Sir Louis Napoleon Casault and George Wheelock Burbidge, have been duly appointed under the said Acts and have taken upon ourselves the burdens thereof.

And whereas it was provided in and by the said Acts that such arbitrators or any two of them should have power to make one or more awards, and to do so from time to time.

And whereas certain questions relative to certain claims have been submitted to such arbitrators. That is to say: (First) The claim made by the Dominion of Canada against the Provinces of Ontario and Quebec, in respect of the alleged liability of the Province of Canada to the Mississagua Indians of the Credit. (Second) A counter claim by the Province of Ontario against the Dominion of Canada for the sum of five thousand five hundred and eighty-two dollars and thirty-six cents (\$5,582.36) charged by the Dominion of Canada against the Widows' Pensions and Uncommuted Stipends Fund, and credited to the Mississagua Indians of the Credit aforesaid. (Thirdly) A claim made by the Dominion of Canada against the Provinces of Ontario and Quebec on behalf of Delaware Indians.

And whereas the said claims have been proceeded with before the said arbitrators, and they have heard the parties thereto, and what has been alleged on their behalf by council.

Now therefore, the said arbitrators exercising their authority to make a separate award at this time respecting the said matters, do award, order and adjudge in and upon the premises as follows, that is to say:—

(First). That the claim made by the Dominion of Canada against the Provinces of Ontario and Quebec in respect of the alleged liability of the Province of Canada to the Mississagua Indians of the Credit be and the same is hereby dismissed.

(Secondly). That in respect of the counter claim made by the Province of Ontario against the Dominion of Canada for the sum of five thousand five hundred and eighty-two dollars and thirty-six cents (\$5,582.36) charged by the Dominion of Canada against the Widows' Pensions and Uncommuted Stipends Fund, and credited to the Mississagua Indians of the Credit aforesaid, that the said Province of Ontario is entitled to be credited as of the first of January one thousand eight hundred and sixty-nine, or such other date as may be agreed upon, with the amount of two thousand four hundred dollars and eighty-six cents (\$2,400.86) charged to the Widows' Pensions and Uncommuted Stipends Fund in respect of the Crown Reserves; the arbitrators being of the opinion and finding that the charges against that fund in respect of the Clergy Reserves have been rightfully and properly made.

(Thirdly). That the claim of the Dominion against the Provinces of Ontario and Quebec on behalf of the Delaware Indians be and the same is hereby dismissed.

In witness whereof, we, the said John Alexander Boyd, Sir Louis Napoléon Casault, and George Wheelock Burbidge have hereunto set our hands and seals this thirteenth day of November A.D. 1895.

Witness:

(Signed) L. A. AUDETTE.

(Signed)

J. A. BOYD, (LS)

L. N. CASAULT, (LS.)

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SIXTH AWARD.

COMMON SCHOOL FUND.—No. 1.

6th February, 1896.

To all to whom these Presents shall come :

The Honourable John Alexander Boyd, of the City of Toronto, in the Province of Ontario, Chancellor of the said province; the Honourable Sir Louis Napoleon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the Province of Quebec, and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said province, Judge of the Exchequer Court of Canada, SEND GREETING :

Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6; and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided, that for the final and conclusive determination of certain questions and accounts, which had arisen or which might arise in the settlement of accounts between the Dominion of Canada and the provinces of Ontario and Quebec, both jointly and severally, and between the two provinces, concerning which no agreement had theretofore been arrived at, the Governor General in Council might unite with the governments of the provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom should be referred such questions as the Governor General and Lieutenant-Governors of the provinces should agree to submit.

And whereas, we, the undersigned, John Alexander Boyd, Sir Louis Napoléon Casault and George Wheelock Burbidge, have been duly appointed under the said Acts and have taken upon ourselves the burden thereof.

And whereas it was provided in and by the said Acts, that such arbitrators or any two of them should have power to make one or more awards and to do so from time to time.

And whereas, by an agreement made on the tenth of April, 1893, on behalf of the government of Canada, of the first part, the government of Ontario of the second part, and the government of Quebec of the third part, it was amongst other things agreed by and between the said several governments, parties thereto, that the following questions, as mentioned in the order of the Governor General in Council, of the twelfth day of December, eighteen hundred and ninety, be, and they were thereby referred to the said arbitrators for their determination and award, in accordance with the said statutes, namely:—

1. All questions relating to or incident to the accounts between the Dominion and the provinces of Ontario and Quebec, and to accounts between the two provinces of Ontario and Quebec.

2. The accounts are understood to include the following particulars:—

(a) The accounts as rendered by the Dominion to the provinces up to January, 1889.

(b) In the unsettled accounts between the Dominion and the two provinces, the rate of interest and the mode of computation to be determined.

(c) The accounts as rendered by the Dominion to the two provinces up to January, 1889, to be determined upon.

(d) The claims made by the Dominion Government on behalf of Indians and payments made by the Government to Indians, to form part of the reference.

(e) The arbitrators to apportion the liability of Ontario and Quebec as to any claim allowed the Dominion Government, and to apportion between Ontario and Quebec any amount found to be payable by the said Government.

(f) All other matters of account (1) between the Dominion and the two provinces, (2) between the Dominion and either of the two provinces, and (3) between the two provinces.

And whereas it was further agreed that the following matters should be referred to the said arbitrators for their determination and award, in accordance with the provisions of the said statutes, namely :

(g) The rate of interest, if any, to be allowed in the accounts between the two provinces, and also whether such interest shall be compounded, and in what manner.

(h) The ascertainment and determination of the amount of the principal of the Common School Fund, the rate of interest which should be allowed on such fund, and the method of computing such interest.

(i) In the ascertainment of the amount of the principal of the said Common School Fund, the arbitrators are to take into consideration not only the sum now held by the Government of the Dominion of Canada, but also the amount for which Ontario is liable, and also the value of the school lands which have not yet been sold.

And whereas, it was further agreed by and between the parties thereto that the questions respecting the Upper Canada Building Fund, and the Upper Canada Improvement Fund, were not then to form any part of the reference; but that the agreement was subject to the reservation by Ontario of any of its rights to maintain and recover its claims, if any, in respect of the said funds, as it might be advised.

And whereas, certain questions respecting the said Common School Fund have been submitted to us, the said arbitrators, and we have heard the parties thereto.

Now therefore we, the said arbitrators exercising our authority to make an award at this time respecting some of such questions and to reserve others for further consideration, do award, order and adjudge in and upon the premises as follows :—

(1) That the sum held by the Government of the Dominion of Canada on the 10th day of April, 1893, as part of the principal of the said Common School Fund amounted to two millions, four hundred and fifty-seven thousand six hundred and eighty-eight dollars and sixty-two cents (\$2,457,688.62), made up of the following sums, that is to say : 1st. The sum of one million, five hundred and twenty thousand, nine hundred and fifty-nine dollars and twenty-nine cents (\$1,520,959.29) that at the union of the provinces came into the hands of the Government of Canada, and upon which interest has, from time to time in the accounts referred to us, been credited to the said provinces ; Secondly. The sum of nine hundred and twenty-five thousand, six hundred and twenty-five dollars and sixty-three cents (\$925,625.63) for which in 1889, the Government of Ontario accounted to the Government of the Dominion ; and thirdly, the sum of eleven thousand, one hundred and three dollars and seventy cents (\$11,103.70) for which the Government of Ontario accounted to the Government of the Dominion in the following year (1890).

From this finding Chief Justice Sir Louis Napoléon Casault dissents, he being of opinion that the sum then held by the Dominion Government as part of the principal of the said Common School Fund was greater than has been stated by an amount of one hundred and twenty-four thousand, six hundred and eighty-five dollars and eighteen cents (\$124,686.18), which sum in the said accounts has been deducted from the said fund and credited to the Upper Canada Improvement Fund.

(2) That the Province of Ontario is not liable, out of the proceeds arising from the sale of Crown Lands of the province, other than the million acres of

Common School Lands set apart in aid of the Common Schools of the late province of Canada, to contribute anything to the Common School Fund.

Mr. Chancellor Boyd dissents from so much of this finding as may imply that Ontario is under any liability in respect to the Common School Fund or Lands.

(3) That, subject to certain deductions, the province of Ontario is liable for the moneys received by the said province since the first day of July, 1867, or to be received from or on account of the Common School Lands set apart in aid of the Common Schools of the late province of Canada.

Mr. Chancellor Boyd dissents from this finding as to liability.

(4) That from the moneys received from the province of Ontario since the first day of July, 1867, from or on account of the Common School Lands set apart in aid of the Common Schools of the late province of Canada, the province of Ontario is entitled to deduct and retain the following sums, as provided by the award of the 3rd of September, 1870, that is to say:

Firstly: In respect of all such moneys, six per centum on the amount thereof for the sale and management of such lands.

Secondly: In respect of moneys arising from sales of such lands made between the fourteenth day of June, 1853, and the sixth day of March, 1861, twenty-five per centum of the balance remaining after the deduction of six per centum for the sale and management of such lands.

Chief Justice Sir Louis Napoléon Casault dissents from so much of this finding as relates to the deduction in the cases mentioned of the twenty-five per centum on such balance.

(5) That in respect of the matters mentioned in the four preceding paragraphs, we, the said arbitrators have proceeded upon our view of disputed questions of law.

(6) With reference to the Quebec Turnpike Trust debentures, in which a part of the Common School Fund was invested, we do award, order and adjudge that there is in respect thereof no liability on the part of the Dominion to either of the provinces, or on the part of the Province of Quebec to the Province of Ontario; but that whatever sums may be realized from the principal moneys due on such debentures, or from the arrears of interest due thereon, on the first day of July, 1867, shall be added to and shall form part of the principal of the said Common School fund, and that whatever sums may be realized for interest on such debentures that has accrued due since the first day of July, 1867, or which may hereafter accrue due, shall be dealt with as income according to such fund.

(7) With respect to the claim made by the Province of Quebec that the Dominion is liable for interest on moneys received by the Province of Ontario from the sales of Common School lands and retained by that Province, we do award, order and adjudge that the Dominion is not liable therefor.

(8) And with respect to other questions and matters relating to the Common School lands and fund, we, the said arbitrators, do not make any award, but reserve the same for further consideration.

In witness whereof we, the said John Alexander Boyd, Sir Louis Napoléon Casault and George Wheelock Burbidge, have hereunto set our hands and seal this sixth day of February, A. D. 1896.

(Sgd.) J. A. BOYD, [Seal.]
 " L. N. CASALT, "
 " GEO. W. BURBIDGE. "

(Sgd.) L. A. AUDETTE. [Seal.]

THE SEVENTH AWARD.

ON COMMON SCHOOL FUND No. 2.

To all whom these Presents shall come :

6th March, 1896.

The Honourable John Alexander Boyd, of the City of Toronto, and the Province of Ontario, Chancellor of the said Province; the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the said Province of Quebec; and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said Province, judge of the Exchequer Court of Canada, SEND GREETING :

Whereas it was, in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things, provided that for the final and conclusive determination of certain questions and accounts which had arisen, or which might arise in the settlement of accounts between the Dominion of Canada and the Provinces of Ontario and Quebec, both jointly and severally, and between the two Provinces concerning which no agreement had heretofore been arrived at, the Governor General in Council might unite with the governments of the Provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom should be referred such questions as the Governor-General and Lieutenant-Governors of the Provinces should agree to submit.

And whereas, we, the undersigned John Alexander Boyd, Sir Louis Napoléon Casault and George Wheelock Burbidge, have been duly appointed under the said Acts, and have taken upon ourselves the burden thereof.

And whereas it was provided in and by the said Acts that such arbitrators, or any two of them, should have power to make one or more awards and to do so from time to time,

And whereas by an agreement made on the tenth of April, 1893, on behalf of the Government of Canada of the first part, the Government of Ontario of the second part, and the Government of Quebec of the third part, it was, among other things, agreed by and between the said several governments, parties thereto, that the following questions, as mentioned in the order of the Governor-General in Council, of the twelfth day of December, eighteen hundred and ninety, be, and they were thereby referred to the said arbitrators for their determination and award, in accordance with the said statutes, namely :

1. All questions relating to or incident to the accounts between the Dominion and the Provinces of Ontario and Quebec, and to accounts between the two Provinces of Ontario and Quebec.

2. The accounts are understood to include the following particulars :—
(a) The accounts as rendered by the Dominion to the provinces up to January, 1889.

(b) In the unsettled accounts between the Dominion and the two provinces, the rate of interest and the mode of computation of interest to be determined.

(c) The accounts as rendered by the Dominion to the two provinces up to January, 1889, to be determined upon.

(d) The claims made by the Dominion Government on behalf of Indians, to form part of the reference.

(e) The arbitrators to apportion the liability of Ontario and Quebec as to any claim allowed the Dominion Government, and to apportion between Ontario and Quebec any amount found to be payable by the said government.

(f) All other matters of account, (1) between the Dominion and the two Provinces; (2) between the Dominion and either of the two Province; and (3) between the two Provinces.

And whereas it was further agreed that the following matters should be referred to the said arbitrators for their determination and award, in accordance with the provisions of the said statutes, namely:—

(g) The rate of interest, if any, to be allowed in the accounts between the two Provinces, and also whether such interest shall be compounded, and in what manner.

(h) The ascertainment and determination of the amount of the principal of the Common School fund, the rate of interest which should be allowed on such fund, and the method of computing such interest.

(i) In the ascertainment of the amount of the principal of the said Common School fund, the arbitrators are to take into consideration, not only the sum now held by the Government of the Dominion of Canada, but also the amount for which Ontario is liable, and also the value of the school lands which have not yet been sold.

And whereas it was further agreed that all the accounts referred to in this agreement should be brought down and extended to the thirty-first day of December, eighteen hundred and ninety-two, inclusive.

And whereas certain questions respecting the said Common School fund have been submitted to us, the said arbitrators, and we have heard the parties thereto, and have made and published our award in respect of some of such questions, and have reserved others for further consideration,

Now, therefore, we, the said arbitrators, exercising our authority to make a further award at this time respecting the same, do award and adjudge in and upon the premises as follows, that is to say :

1. That the amount of principal and interest of the Common School fund, for which the Province of Ontario is liable, shall be brought down and extended to the thirty-first day of December, eighteen hundred and ninety-two, inclusive, and shall be carried into the proper accounts as of that date.

2. That in computing the amount of principal money of the Common School fund, for which the Province of Ontario is liable, the following sums shall be deemed to be and shall be treated in all respects as moneys received by the Province from or on account of the Common School lands set apart in aid of the Common Schools of the late Province of Canada, that is to say:

(a) Any sum of money due for principal or interest from any purchaser of said Common school lands, remitted by the Province of Ontario to the purchaser, unless it be shown by the Province that such remission was made in a fair and prudent administration of the Common School lands and fund; and

(b) Any sum of money due for principal or interest from any purchaser of said Common School lands, at the time when letters patent for such lands were issued to him by the Province of Ontario, and not collected by the Province, unless it be shown by the Province that there was good cause for not collecting the same.

3. That where in a fair and prudent administration of the Common School lands any sale of such lands has been cancelled by the Province of Ontario, and the same resold at a price less than that first obtained, the Province shall not be liable for the loss resulting therefrom.

4. That in computing the amount of interest due from the Province of Ontario to the Common School fund on the thirty-first day of December, eighteen hundred and ninety-two, such interest shall be computed and made up at the rate of five per centum per annum, and shall be compounded half-yearly.

5. Mr. Chancellor Boyd dissents from so much of this award as makes the Province of Ontario liable for any sums of money remitted to or not collected

from the purchaser of any Common School lands and for interest on any sums so remitted or not collected.

6. And with respect to other questions and matters relating to the Common School lands and fund, we, the said arbitrators, do not now make any award, but reserve the same for further consideration.

In witness whereof, we, the said John Alexander Boyd, Sir Louis Napoléon Casault, and George Wheelock Burbidge have hereunto set our hands and seals this sixth day of March, in the year of our Lord one thousand eight hundred and ninety-six.

(Sgd.)	J. A. BOYD,	[Seal]
"	L. N. CASAULT,	[Seal]
"	GEO. W. BURBIDGE,	[Seal]

Witness:

(Sgd.) L. A. AUDETTE.

(This award was communicated to parties on 24th December, 1896, but was not formally published until 15th March, 1897).

THE EIGHTH AWARD.

ITEMS CHARGED BY THE DOMINION AGAINST THE PROVINCES OF ONTARIO AND QUEBEC.

To all to whom these Presents shall come:

20th June, 1896.

The Honourable John Alexander Boyd, of the City of Toronto, and Province of Ontario, Chancellor of the said Province; the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the said Province of Quebec, and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said Province of Ontario, Judge of the Exchequer Court of Canada, SEND GREETING:

Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain questions and accounts which had arisen or which might arise in the settlement of accounts between the Dominion of Canada and the Provinces of Ontario and Quebec, both jointly and severally, and between the two Provinces, concerning which no agreement had theretofore been arrived at, the Governor General in Council might unite with the Governments of the Provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom should be referred such questions as the Governor General and Lieutenant-Governors of the Provinces should agree to submit.

And whereas we, the undersigned John Alexander Boyd, Sir Louis Napoleon Casault and George Wheelock Burbidge have been duly appointed under the said Acts, and have taken upon ourselves the burdens thereof;

And whereas it was provided in and by the said Acts that such arbitrators or any two of them should have power to make one or more awards, and to do so from time to time;

And whereas the matters hereinafter mentioned have been submitted to us, the said arbitrators, and we have heard the parties thereto, and what has been alleged by counsel on their behalf;

Now therefore we, the said arbitrators, exercising our authority to make a separate award at this time respecting the said matters, do award, order and adjudge in and upon the premises as follows, that is to say:—

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1. With respect to the following matters mentioned in items one to six inclusive in the report of the accountants or referees of 30th of January, 1896, namely:—

Item 1.

Ward & O'Leary, contractors, for additions and repairs
 to the Rideau Hall property.....\$ 7,927 98

Item 2.

D. Murphy, 20th July, 1867.....\$75 00
 " 27th " " 91 20
 Jacques & Hay, 20th November, 1867.....\$ 166 20
 H. Drum, 20th October, 1867 3,500 00
 W. McKay, 18th August, 1867..... 2,000 00
 750 00
 \$6,416 20

Item 3.

Jacques & Hay, 11th January, 1868\$ 9,016 00
 H. Drum, 11th January, 1868 5,456 35
 W. McKay, 14th January, 1868 2,765 74
 Glover & Fry, 27th January, 1868 475 00
 \$17,713 09

Item 4.

R. H. McGreevy, 21st November, 1867.....\$4,204 59
 Less for work ordered after confederation 960 00
 \$3,244 59

Item 5.

C. Garth, 21st December, 1867 \$2,433 29

Item 6.

Charles Garth, 20th May, 1869—Warrant 3040..... \$8,000 00

we do award, order and adjudge that the said several sums mentioned shall remain and be charged in the Province of Canada Account against said province. Chief Justice Sir Louis Napoleon Casault dissents from so much of this finding as relates to the item designated by the numbers four and five.

2. With respect to the item number seven mentioned in the said report, namely:—

Item 7.

Evan Roys, 1st April, 1868—Warrant 3881..... \$2,786 00

we do award, order and adjudge that thirteen hundred dollars (\$1,300.00) part of the amount, be struck out of the Province of Canada Account, and the balance of \$1,486 remain in the account as a charge against the Province.

3. With respect to items eight, nine and ten, mentioned in the said report, namely:—

Item 8.

J. M. Browning, 13th July, 1872 \$ 964 28

Item 9.

Col. Gagy, 9th April, 1874.....\$1,174 80
 do December, 1870 1,780 00
 2 AW.

Item 10.

E. Couillard, December, 1870. \$ 778 94

we do award, order and adjudge that the said amounts are not chargeable against the Province of Canada, and that the same be struck out of the Province of Canada Account.

4. With respect to item number eleven, mentioned in the said report, namely:—

Item 11.

E. Lemoine, 2nd October, 1878 \$10,908 34

we do award, order and adjudge that the amount be struck out of the Province of Canada Account, and that the Province of Quebec be charged with its share of the amount in the Province of Quebec Account.

5. With respect to item twelve and thirteen, mentioned in the said report, namely:—

Item 12.

Payments to B. G. French, G. S. Cutler, Sewell Cutler,
and Noah Dickinson, for land, land damages and
interest arising out of the construction of the
Cornwall Canal..... \$2,734 22

Item 13.

Payment to Mrs. Farlinger for land expropriated for the Rapide Plat Canal:
Matilda Lots \$1,103 67
Mariatown Lots..... 510 00

\$1,613 67

we do award, order and adjudge that the said amounts remain and be charged against the Province of Canada in the Province of Canada Account.

6. With respect to item fourteen, mentioned in the said report, namely:—

Item 14.

John Damp, contractor, for Algoma Court house..... \$4,662 49

we do award, order and adjudge that the amount remain and be charged against the Province of Canada in the Province of Canada Account.

7. With respect to item fifteen mentioned in said report, and which has reference to an amount of \$12,928.37 paid to the Canada Land and Emigration Fund by the Province of Ontario, and of which amount the Dominion has repaid to such Province the sum of \$9,409.92, we do award, order and adjudge that the said amount of \$9,409.92 remain and be charged against the Province of Canada in the Province of Canada Account, and that the balance of the amount of \$12,927.38, that is to say, the sum of \$3,518.45 be charged against the Province of Canada in the Province of Canada Account, as of the date of December 31st, 1892, and be credited of the same date to the Province of Ontario in the Province of Ontario Account.

8. With respect to item sixteen mentioned in the said report, namely:—

Item 16.

Parliament Buildings, Toronto..... \$25,939 62

we do award, order and adjudge that the amount remain and be charged against the Province of Ontario in the Province of Ontario Account.

9. With respect to item seventeen mentioned in the said report, namely:—

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Item 17.

Algoma Court house. (Details annexed to Accountant's
Report)

\$6,878 58

we do award, order and adjudge that of the sum mentioned \$6,378.58, parcel thereof, be charged against the Province of Canada in the Province of Canada Account, and the balance of \$500.00 be charged against the Province of Ontario in the Province of Ontario Account.

10. With respect to item eighteen mentioned in the said report, namely:—

Item 18.

Premium at which the India Bond held for the Imperial
Guaranteed Loan might have realized 31st Decem-
ber, 1868, approximately

\$68,000 00

we do award, order and adjudge that the Dominion of Canada is entitled to this amount and to retain the same for its own use, and we do dismiss the claim made that it should be credited to the Province of Canada in the Province of Canada Account.

11. With respect to item nineteen mentioned in the said report and which represents a claim that the Province of Canada should be credited in the Province of Canada Account with a sum of \$189,177.50 being twenty-five per cent. upon \$756,710.00 at which the capital of the Seigniorial Indemnity to Townships was stated in the Statement of Debt of the old Province of Canada, we do award, order and adjudge that the said amount ought not to be so credited in the said account, and we do dismiss the said claim

Mr. Chancellor Boyd dissents from this finding, and would allow the claim made in respect to this matter.

In the disposition that we make of this matter Mr. Chancellor Boyd proceeds upon his view of a disputed question of law. Chief Justice Sir Louis Napoléon Casault and Mr. Justice Burbidge proceed upon equitable principles, that is, upon what, in their view, is a fair and equitable determination and disposition of the matter having regard to all the circumstances and the manner in which the parties have themselves dealt with it.

12. With respect to item twenty mentioned in the said report, and which represents a claim made by the province of Quebec that the amount of \$8,051.45 for lands sold as Clergy Reserves of Upper Canada, but found to belong to the Mohawk Indians, and now charged against the province of Canada in the province of Canada Account of the date of June 30th, 1877, should be struck out of the latter account, and be charged against the province of Ontario in the province of Ontario Account, we do award, order and adjudge that the said amount of \$8,051.45 be struck out of the province of Canada Account and be charged against the province of Ontario in the province of Ontario Account, of the date last mentioned.

Mr. Chancellor Boyd dissents from this finding.

13. With respect to item twenty-one of the said report, representing a claim made by the Dominion that the gratuities paid to old servants of the Senate, amounting to \$22,819.10, should be charged to the province of Canada in the province of Canada Account, we do award, order and adjudge that the said sum ought not to be so charged, and we do dismiss the said claim.

14. With respect to item twenty-three mentioned in the said report, and which represents a claim made by the province of Quebec that a sum of \$14,418.10 expended on account of the St Vincent de Paul Reformatory and now charged against the province of Quebec in the province of Quebec Account, we do award, order and adjudge that said amount is properly charged against the province of Quebec, and ought not to be charged against the Province of Canada, and we do dismiss the said claim.

Chief Justice Sir Louis Napoléon Casault dissents from this finding.

15. With respect to an amount of \$2,000.00 paid to Louis Moffat on the 15th of March, 1888, on account on his expenses in connection with "The Rescue" case, we do award, order and adjudge that said amount remain and be charged against the province of Canada in the province of Canada Account.

16. With respect to a claim made by the Dominion of Canada against the province of Ontario for certain immigration expenditure, wherein by a former award, dated the 13th day of February, 1895, we allowed so much of the claim as related to expenditure made in the year 1878, and otherwise dismissed the said claim and discharged the said province therefrom, it now appearing by admission of counsel that there is nothing due to the Dominion from the province for the said year of 1878, we do award, order and adjudge that the said claim be dismissed.

17. With respect to the claim made by the Dominion of Canada against the province of Ontario with reference to the rents of Ordnance Lands at Amherstburg and Penetanguishene, we do award, order and adjudge that the said claim be dismissed.

18. With respect to a claim made by the Dominion of Canada on behalf of the Mississauga Indians of Rice, Scugog and Mud Lakes, against the provinces of Ontario and Quebec, we do award, order and adjudge that the sum of \$5,689 be allowed and charged against the province of Canada in the province of Canada Account, of the date of July 1st, 1867, and that the sum of \$663.60 be allowed and charged against the province of Ontario in the province of Ontario Account, as of the proper dates as shown by reference to the schedule of items attached to the said claim.

19. With respect to a claim made by the Dominion of Canada on behalf of the Mississauga Indians of Alnwick, against the provinces of Ontario and Quebec respecting Gasket Island and Garratt or Sugar Island, we do award, order and adjudge that the sum of \$815 be allowed and be charged against the Province of Ontario in the Province of Ontario Account of the proper date or dates.

20. With respect to the claim made by the Dominion of Canada on behalf of the Chippewa Indians of the Thames and of Sarnia and the Wyandotte Indians, against the Provinces of Ontario and Quebec, we do award, order and adjudge that the claim be dismissed.

In witness whereof we, the said John Alexander Boyd, Sir Louis Napoléon Casault, and George Wheelock Burbidge, have hereunto set our hands and seals the 20th day of June, A.D. 1896.

Witness,

(Sgd.) L. A. AUDETTE.

(Sgd) J. A. BOYD,

" L. N. CASALT,

" GEORGE W. BURBIDGE,

(Seal)

(Seal)

(Seal)

THE NINTH AWARD.

RELATING TO JURISDICTION TO HEAR WARD AND O'LEARY—MCGREEVY AND GARTH COMPANIES FOR PARLIAMENT BUILDINGS OTTAWA AND JOHN STEWART.

To all to whom these Presents shall come :

15th May, 1897.

The Honourable John Alexander Boyd, of the City of Toronto and Province of Ontario, Chancellor of the said Province; the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the

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to and Province
Louis Napoléon
Justice of the

Superior Court of the said Province of Quebec and the Honourable George Wheelock Burbidge, of the City of Ottawa in the said Province of Ontario, Judge of the Exchequer Court of Canada, SEND GREETING.

Whereas it was, in and by the Act of the Parliament of Canada, 54 55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain questions and accounts which had arisen or which might arise in the settlements of accounts between the Dominion of Canada and the Provinces of Ontario and Quebec, both jointly and severally, and between the two Provinces, concerning which no agreement had theretofore been arrived at, the Governor-General in Council might unite with the Governments of the Provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom should be referred such questions as the Governor General and Lieutenant-Governors of the Provinces should agree to submit.

And whereas we, the undersigned, John Alexander Boyd, Sir Louis Napoléon Casault, and George Wheelock Burbidge have been duly appointed under the said Acts, and have taken upon ourselves the burdens thereof.

And whereas it was appointed in and by the said Acts, that such Arbitrators or any two of them should have power to make one or more awards, and to do so from time to time.

And whereas the matters hereinafter mentioned have been submitted to us the said Arbitrators, and we have heard the parties thereto, and what has been alleged by counsel on their behalf.

Now, therefore we, the said Arbitrators exercising our authority to make a separate award at this time respecting the said matter, do award, order and adjudge in and upon the premises as follows, that is to say:—

1. With respect to the claim made on behalf of the Dominion of Canada against the Provinces of Ontario and Quebec for certain moneys paid to Robert H. McGreevy, Messrs. Ward and O'Leary and Charles Garth, as set out in the statement of case filed, and the plea to the jurisdiction filed on behalf of the Province of Ontario, and argued under reservation of the rights of the Province of Quebec, we do order that an answer or statement in defence be made and delivered on behalf of the Province of Ontario to the said statement or claim, and that the parties proceed to a hearing thereof, reserving however in the Province of Ontario the right in such answer or statement in defence and at such hearing to raise the question of alleged want of jurisdiction as a question of law, and thereby to renew the objection that the claim does not fall within the scope of the reference. The same matter of defence is reserved and open to the Province of Quebec, in the statement in defence to be filed by that Province.

2. With respect to the claim made on behalf of the Dominion of Canada to charge in the Province of Ontario account certain moneys paid by the Dominion on account of the salary, from July 1st to 4th of November, 1867, of the Honourable James Cockburn as Solicitor General for Canada West, and for certain expenses incurred by him amounting in the whole to \$1,037.57, we do award, order and adjudge that the said claim be dismissed, and that the said amount so charged be struck out of the Province of Ontario account.

3. With respect to the claim made on behalf of the Dominion of Canada against the province of Ontario to be allowed in the accounts between the Dominion and the province of Ontario the sum of three thousand dollars recovered upon a recognizance given for the appearance of one John Stewart, an officer in Inland Revenue, to answer a charge of unlawfully and feloniously aiding, assisting and abetting certain persons in extracting a quantity of spirits from a bonded warehouse, and which said recognizance was duly estreated and the money collected thereon paid into the Treasury of the province of Ontario, we do refrain

from making any award, as in our opinion it is not possible so to do, without assuming to decide and deciding a disputed constitutional question.

Mr. Justice Burbidge having had the matter mentioned in this paragraph brought before him when filling the office of the Deputy of the Minister of Justice, takes no part in the disposition of the same.

IN WITNESS WHEREOF we, the said John Alexander Boyd, Sir Louis Napoléon Casault, and George Wheelock Burbidge, having hereunto set our hands and seals the fifteenth day of May, A.D. 1897.

(Signed)

J. A. BOYD,

[Seal]

"

L. N. CASAULT,

[Seal]

GEO. W. BURBIDGE.

[Seal]

Witness:

(Signed)

L. A. AUDETTE.

THE TENTH AWARD.

CLAIM — HURON AND SUPERIOR INDIAN TREATIES CONJOINTLY AGAINST ONTARIO AND QUEBEC.

To all to whom these Presents shall come:

7th January, 1898.

The Honourable John Alexander Boyd, of the city of Toronto, and Province of Ontario, Chancellor of the said province; the Honourable Sir Louis Napoléon Casault, of the city of Quebec, in the province of Quebec, Chief Justice of the Superior Court of the said province of Quebec; and the Honourable George Wheelock Burbidge, of the city of Ottawa, in the said province of Ontario, Judge of the Exchequer Court of Canada, SEND GREETING:

Whereas it was in and by the Act of the Parliament of Canada, 53-54 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things, provided that for the final and conclusive determination of certain questions and accounts which had arisen or which might arise in the settlement of accounts between the Dominion of Canada and the provinces of Ontario and Quebec, both jointly and severally, and between the two provinces, concerning which no agreement had theretofore been arrived at, the Governor General in Council might unite with the Governments of the provinces of Ontario and Quebec in the appointment of three arbitrators, being Judges, to whom should be referred such questions as the Governor General and Lieutenant Governors of the said provinces should agree to submit.

And whereas we, the undersigned, John Alexander Boyd, Sir Louis Napoléon Casault, and George Wheelock Burbidge have been duly appointed under the said Acts, and have taken upon ourselves the burdens thereof.

And whereas it was provided in and by the said Acts such arbitrators, or any two of them should have power to make one or more awards, and to do so from time to time.

And whereas certain questions respecting a claim made by the Dominion of Canada against the Provinces of Ontario and Quebec that in ascertaining the debt of the Province of Canada mentioned in the 112th section of *The British North America Act, 1867*, the contingent obligation to pay the increased annuities mentioned in the Robinson Treaties of the 7th and 9th of September, 1850, and the arrears of such increased annuities between the years 1867 and 1873, inclusive, and the sums paid by the Dominion in respect of such increased annuities up to

so to do, without as-
sion.

in this paragraph
Minister of Justice,

Sir Louis Napoléon
unto set our hands

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ULT, [Seal]
BURBIDGE. [Seal]

NTLY AGAINST

January, 1898.

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the 31st day of December, 1892, should be taken into account, have been sub-
mitted to such arbitrators, and they have heard the parties, and what has been
alleged on the part of each.

Now, therefore, the said arbitrators exercising their authority to make a
separate award at this time respecting the said matter, and proceeding up their
view of a disputed question of law, do award, order and adjudge in and upon the
premises, as follows, that is to say:

That in ascertaining and determining the debt of the Province of Canada
mentioned in the 112th section of *The British North America Act*, 1867, the con-
tingent obligation devolving upon the Dominion of Canada to pay the increased
annuities mentioned in the Robinson Treaties of the 7th and 9th of September,
1850, and any increased annuities which have become due to the Indians since
the 1st day of July, 1867, up to and including the 31st day of December,
1892, shall be taken into account and included in such debt.

In witness whereof we, the said John Alexander Boyd, Louis Napoleon
Casault and George Wheelock Burbidge, have hereunto set our hands and seals
this seventh day of January, in the year of our Lord one thousand eight hundred
and ninety-eight.

(Sgd)	J. A. BOYD.	(Seal.)
"	L. N. CASAULT,	"
"	GEO. W. BURBIDGE.	"

Signed, sealed and published
in the presence of,
(Sgd) L. A. AUDETTE.

THE ELEVENTH AWARD.

DISMISSAL OF MCGREEVY-WARD AND O'LEARY AND GARTH CLAIMS ON MERITS.

To all to whom these Presents shall come :

7 January, 1898.

The Honourable John Alexander Boyd, of the city of Toronto, and province
of Ontario, Chancellor of the said province; the Honourable Sir Louis Napoléon
Casault, of the city of Quebec, in the province of Quebec, Chief Justice of the
Superior Court of the said province of Quebec, and the Honourable George
Wheelock Burbidge, of the city of Ottawa, in the said province of Ontario, Judge
of the Exchequer Court of Canada, SEND GREETING:

Whereas it was in and by the Act of the Parliament of Canada, 54-55
Victoria, chapter 6, in and by an Act of the Legislative Assembly of Ontario, 54
Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Vic-
toria, chapter 4, among other things, provided that for the final and conclusive
determination of certain questions and accounts which had arisen or which might
arise in the settlement of accounts between the Dominion of Canada and the
provinces of Ontario and Quebec, both jointly and severally, and between the
two provinces concerning which no agreement had theretofore been arrived at
the Governor General in Council might unite with the Governments of the
provinces of Ontario and Quebec in the appointment of three arbitrators, being
judges, to whom should be referred such questions as the Governor General and
Lieutenant Governors of the provinces should agree to submit.

And whereas we, the undersigned, John Alexander Boyd, Louis Napoléon
Casault and George Wheelock Burbidge have been duly appointed under the
said Acts and have taken upon ourselves the burdens thereof.

And whereas it was provided in and by the said Acts that such arbitrators, or any two of them, should have power to make one or more awards, and to do so from time to time.

And whereas certain questions relative to certain claims have been submitted to such arbitrators, that is to say:

The claims made by the Dominion of Canada against the Provinces of Ontario and Quebec, in respect of the alleged liability of the Province of Canada, as set forth in a statement of claim filed on the 17th day of March, 1896, for an amount of \$46,270.30 paid to one R. H. McGreevy, and for a further amount of \$2,947.41 paid to Ward & O'Leary, and for a further sum of \$12,875 paid to one Charles Garth.

And whereas the said claims have been proceeded with before the said arbitrators, and they have heard the parties thereto and what has been alleged on their behalf by counsel.

Now, therefore, the said arbitrators, exercising their authority to make a separate award at this time respecting the said matters, do award, order and adjudge in and upon the premises that the aforesaid claim made by the Dominion of Canada against the Provinces of Ontario and Quebec, in respect of the alleged liability of the Province of Canada, be, and the same are hereby dismissed.

In witness whereof we, the said John Alexander Boyd, Louis Napoléon Casault and George Wheelock Burbidge, have hereunto set our hands and seals this seventh day of January, A. D. 1898

(Sgd.)

J. A. BOYD,

(Seal.)

"

L. N. CASAULT,

"

"

GEO. W. BURBIDGE,

"

Signed, sealed and published
in presence of,

(Sgd.) L. A. AUDETTE.

ORDER OF THE BOARD OF ARBITRATORS.

In the matter of the arbitration for the settlement of all questions relating or incident to the accounts, and for the settlement of matters of accounts between the Dominion of Canada and the provinces of Ontario and Quebec, and between the said two provinces, pursuant to 54 and 55 Victoria, chapter 6 (Canada); 64 Victoria, chapter 2 (Ontario); and 54 Victoria, Chapter 4 (Quebec).

MONTREAL, Friday the 7th day of January, A.D. 1898.

Present :

The Honourable Mr. CHANCELLOR BOYD,
The Honourable Sir LOUIS NAPOLÉON CASAULT,
The Honourable Mr. JUSTICE BURBIDGE.

Between :

No. 21.

THE DOMINION OF CANADA

vs.

THE PROVINCES OF ONTARIO AND QUEBEC.

Re INDIAN CLAIMS ARISING OUT OF THE "ROBINSON TREATIES."

Upon the application of Counsel for the province of Ontario, 1st: That the Board lay down a rule as to the burden of proof in adducing evidence in respect of who are the individuals entitled to the benefit respectively of the Robinson Treaties of the 7th and 9th days of September, 1850; 2nd: That the Board de-

clare who are Indians or persons entitled to the benefit thereof: and 3rd: To declare what class of expenditure should be taken into account in determining whether or not the augmented annuities provided for in such treaties could be paid by the Government without incurring loss.

I.—BURDEN OF PROOF.

This Board, in respect of the burden of proof, doth order and direct that the rule hereinafter set forth be followed:

With reference to the period before the Union: The individuals whose names appear on the lists paid before the Union shall be taken into account in computing any increased annuity that should have been paid.

The onus of showing that the names of any individuals entitled to be reckoned were improperly omitted from such lists shall now be on the Indians or those who act for them.

And in like manner no names shall be struck off, except for good reasons as shown by those whose interest it is to keep the numbers down.

With reference to the period after Confederation: Neither Ontario nor Quebec shall be in any way affected or precluded by the action of the Parliament or Government of Canada, or of any of its officers, either in prescribing a definition of who are Indians or in adding to the lists the name of any "individual" as an Indian of a tribe or band entitled to the benefit of either treaty.

The burden of showing that the names of any Indians so added since the Union to such lists were rightly added shall be on the Government of Canada.

II.—INDIANS AND PERSONS ENTITLED TO THE BENEFIT OF SUCH TREATIES, RESPECTIVELY.

This Board, in respect of Indians and persons entitled to the benefit of such treaties respectively, doth further order and declare that for the purpose of ascertaining the number of individuals entitled, respectively, to the benefit of the Robinson Treaties of the seventh and ninth days of September, 1850, each of the persons hereinafter described shall, if he or she is a British subject, resident in Canada, and follows the tribal life, be deemed and taken to be an Indian within the meaning of such treaties, and entitled to the benefit thereof respectively: that is to say:

(a) Any member of any tribe or band who were parties to the treaty, and any lawful descendant of Indian blood of any such member of any such tribe or band;

(b) Any person intermarried with any such member of any such tribe or band, and any lawful descendant of Indian blood of any person so intermarried with any such member of any such tribe or band;

(c) Any person adopted and acknowledged prior to 1893 by any such tribe or band, and any lawful descendant of Indian blood of any person so adopted and acknowledged as a member of any such tribe or band.

Descendant of Indian blood shall mean persons of at least one-fourth Indian blood.

III.—CLASSES OF EXPENDITURE TO BE TAKEN INTO ACCOUNT IN DETERMINING IF AUGMENTATIONS OF ANNUITIES CAN BE PAID WITHOUT INCURRING LOSS.

This Board, in respect of the classes of expenditure to be taken into account in determining if augmentations of annuities can be paid without incurring loss, doth further order and direct that the provinces of Ontario and Quebec are entitled to deduct from the revenue of the ceded territories, respectively, before it can be determined whether the amount of the annuities in the treaties stated can

be increased without incurring loss, the expenditures and charges made within the area of the territories, at the cost of the Governments of the late province of Canada, of the Dominion of Canada, or of the province of Ontario, of the nature and description under the following heads:—

1. Surveys.
2. Colonization roads.
3. Expenses of Agencies, and agents' salaries on land sales.
4. Cost of collection for timber revenue.
5. A percentage to be agreed upon between parties, or subsequently determined, of the departmental expenses of management and collection of revenue, whether from sales of land or timber.
6. Public works: Such public works as to which the parties may be agreed, and if there is any disagreement, the question is to be submitted to the Board for opinion.
7. Administration of Justice: Such a portion of the cost of the administration of justice as may be settled and agreed to between counsel, and if they cannot agree, to be determined by the Board, having regard to the condition of settlement at the time such expenses are incurred.
8. Registrar's Land Title salaries.
9. The Annuities: The amount actually and annually paid to the Indians, or their chief of their tribes, as the case may be, and the sums paid down at the negotiation of the treaties.
10. The expense of setting apart, marking out and surveying the reserves, by the late Province of Canada, if not included in the column of surveys made for settlement.
11. Explorations and inspections: One-half of the expenditure incurred within the surrendered territory as can be fairly apportioned upon examination of the engineers' reports and returns of expenditure.
12. Railways: Subsidies and expenditures by the Government of Ontario in respect of the following railways: The Prince Arthur's Landing and Kaministiquia Railway; Port Arthur, Duluth and Western Railways; Ontario and Rainy River Railway to Sand Lake.
13. Education: The expenditure by the Government of the Province of Ontario in respect of education within the territory, during the opening up and development thereof.
14. That the revenues arising from the White Fish Reserve in respect of which refunds were made by the Government of the Province of Ontario, be omitted and left out from the statement of revenue derived from the ceded territory as of the dates respectively when such revenues were collected.

By the Board,

(Signed) L. A. AUDETT, Secretary.

THE TWELFTH AWARD.

QUESTIONS DECIDING RULES TO BE OBSERVED IN MAKING THE ACCOUNTS.

2 December, 1898.

To all to whom these Presents shall come:

The Honourable John Alexander Boyd, of the City of Toronto, and Province of Ontario, Chancellor of the said Province; the Honourable Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the said Province of Quebec, and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said Province of Ontario, Judge of the Exchequer Court of Canada, SEND GREETING:

Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things, provided that for the final and conclusive determination of certain questions and accounts which had arisen or which might arise in the settlement of accounts between the Dominion of Canada and the Provinces of Ontario and Quebec, both jointly and severally, and between the two Provinces concerning which no agreement had theretofore been arrived at, the Governor-General in Council might unite with the Governments of the Provinces of Ontario and Quebec in the appointment of three arbitrators, being judges, to whom should be referred such questions as the Governor-General and Lieutenant-Governors of the provinces should agree to submit.

And whereas we, the undersigned, John Alexander Boyd, Louis Napoléon Casault and George Wheelock Burbidge, have been duly appointed under the said Acts and have taken upon ourselves the burdens thereof.

And whereas it was provided in and by the said Acts that such arbitrators, or any two of them, should have power to make one or more awards, and to do so from time to time.

And whereas certain questions relative to the making up of such accounts have arisen between the said parties, that is to say :

Firstly.—It is contended on behalf of the Dominion of Canada that interest should be calculated upon the debits and credits forming the Province of Canada account, from the date of each payment up to the 31st December, 1867, and the amount of the interest so calculated to be deducted from the subsidy payable on the 1st of January, 1868. And that a similar course should be pursued each half year down to and including the subsidy payable on the 1st January, 1873.

While for the Provinces of Ontario and Quebec it is contended that interest only on the excess of debt, as actually ascertained on the 1st July, 1867, should be deducted from the subsidy payable on the 1st January, 1868, and that no interest on the intermediate debits and credits in the said account, between the 1st July, 1867, and 1st January, 1868, should be allowed to form part of the deduction to be made from the subsidy so payable as aforesaid on the 1st January, 1868. That from each succeeding subsidy, up to and including 1st January, 1873, the interest to be deducted should be calculated for six months upon the actual balance of excess of debt as ascertained six months before the deduction is made.

Secondly.—It is contended for the Dominion of Canada that on the 23rd May, 1873, after crediting the Province of Canada account with the sum of \$10,506,088.84, the balance of that account should be carried into the separate accounts of the Provinces in the proportions of the award of 1870, and that the Province of Canada account should be continued thereafter down to the 31st December, 1892, as provided in the agreement of submission.

While for the Provinces of Ontario and Quebec it is contended that the balance of the Province of Canada account on the 23rd May, 1873, after crediting that account with the sum of \$10,506,088.84, should not be carried into the respective accounts of the Province, but that the Province of Canada account should be continued down to the 31st December, 1892, as provided in the agreement of submission.

Thirdly.—It is contended for the Dominion of Canada that interest upon the excess of debt as it existed on the 1st January, 1873, should be calculated up to the 23rd May, 1873, and charged to the Province of Canada account on that date.

While for the Provinces of Ontario and Quebec it is contended that no such interest on the excess of debt is chargeable after the 1st January, 1873.

Now, therefore, the said arbitrators, exercising their authority to make separate award at this time respecting the said matters, do award, order and adjudge and direct in and upon the premises as follows, that is to say :

Firstly.—That interest only on the excess of debt, as actually ascertained on the first July, 1867, should be deducted from the subsidy payable on the 1st January, 1868, and that no interest on the intermediate debits and credits in the Province of Canada account, between the 1st July, 1867, and 1st January, 1868, should be allowed to form part of the deduction to be made from the subsidy so payable as aforesaid on the 1st January, 1868. That from each succeeding subsidy up to and including 1st January, 1873, the interest to be deducted should be calculated for six months upon the actual balance of excess of debt, as ascertained six months before the deduction is made.

(Mr. Justice Burbidge dissents from this direction)

Secondly.—That the balance of the Province of Canada accounts on the 23rd May, 1873, after crediting that account with the sum of \$10,506,088.84 should not be carried into the respective accounts of the Provinces, but that the Province of Canada account should be continued down to the 31st December, 1892, as provided in the agreement of submission.

Thirdly.—That interest upon the excess of debt as it existed on the 1st day of January, 1873, should not be calculated up to the 23rd May, 1873, and charged to the province of Canada account.

In witness whereof we, the said John Alexander Boyd, Louis Napoléon Casault and George Wheelock Burbidge, have hereunto set our hands and seals this second day of December, A.D., 1898.

(Sgd.)

J. A. BOYD,

(Seal)

"

L. N. CASAULT,

"

"

GEO. W. BURBIDGE.

"

Witness :

(Sgd.) L. A. AUDETTE.

THE THIRTEENTH AWARD.

COMMON SCHOOL AWARD NO. 3, DATED 22ND MARCH, 1899.

To all to whom these Presents shall come :

The Honourable John Alexander Boyd, of the City of Toronto and the Province of Ontario, Chancellor of the said Province; the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the said Province of Quebec, and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said Province of Ontario, Judge of the Exchequer Court of Canada, SEND GREETING :

Whereas, it was, in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6; and in and by an Act of the Legislature Assembly of Ontario, 54 Victoria chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things, provided that for the final and conclusive determination of certain questions and accounts which had arisen, or which might arise, in the settlement of accounts between the Dominion of Canada and the Provinces of Ontario and Quebec, both jointly and severally, and between the two Provinces, concerning which no agreement had heretofore been arrived at, the Governor-General in Council might unite with the Governments of the Province of Ontario and Quebec in the appointment of three Arbitrators, being Judges, to whom shall be referred such questions as the Governor-General and Lieutenant-Governors of the said Provinces should agree to submit.

And whereas, we, the undersigned John Alexander Boyd, Louis Napoléon Casault and George Wheelock Burbidge, have been duly appointed under said Acts, and have taken upon ourselves the burdens thereof;

And whereas, it was provided in and by the said Acts such Arbitrators, or any two of them, should have power to make one or more awards, and to do so from time to time;

And whereas, a certain question respecting the division of the income of the Common School Fund between the Provinces of Ontario and Quebec, namely, whether the Award of third September, 1870, in so far as it directs a division of the income of the Common School Fund between the Provinces of Ontario and Quebec is good or not, has been submitted to us, the said Arbitrators, and we have heard the parties and what has been alleged on the part of each.

Now, therefore, we, the said Arbitrators, exercising our authority to make a separate award at this time respecting the said matter, and proceeding upon our view of a disputed question of law do answer the said question in the affirmative, and do award, order and adjudge in and upon the premises that the income of the Common School Fund be divided between the said Provinces of Ontario and Quebec, in the manner and proportions determined and provided for in the said Award of the third September, 1870.

Sir Louis Napoléon Casault dissents from this answer and award.

In witness whereof we, the said John Alexander Boyd, Louis Napoléon Casault and George Wheelock Burbidge, have hereunto set our seals this twenty-second day of March in the year of Our Lord one thousand eight hundred and ninety-nine.

Signed, sealed and published
in the presence of
L. A. AUDETTE.

J. A. BOYD, [L.S.]
L. N. CASALT, [L.S.]
GEO. W. BURBIDGE, [L.S.]

THE FOURTEENTH AWARD.

COMMON SCHOOL AWARD No. 4, DATED 21ST OCTOBER, 1899.

To all to whom these Presents shall come:

The Honourable Sir John Alexander Boyd, of the City of Toronto, in the Province of Ontario, Chancellor of the said Province; the Honourable Sir Louis Napoléon Casault, of the City of Quebec, in the Province of Quebec, Chief Justice of the Superior Court of the said Province of Quebec; and the Honourable George Wheelock Burbidge, of the City of Ottawa, in the said Province of Ontario, Judge of the Exchequer Court of Canada, SEND GREETING:

Whereas it was in and by the Act of the Parliament of Canada, 54-55 Victoria, chapter 6, and in and by an Act of the Legislative Assembly of Ontario, 54 Victoria, chapter 2, and in and by an Act of the Legislature of Quebec, 54 Victoria, chapter 4, among other things provided that for the final and conclusive determination of certain questions and accounts which had arisen, or which might arise, in the settlement of accounts between the Dominion of Canada and the Provinces of Ontario and Quebec, both jointly and severally, and between the two Provinces, concerning which no agreement had theretofore been arrived at, the Governor-General in Council might unite with the Governments of the Provinces of Ontario and Quebec in the appointment of three Arbitrators, being Judges, to whom should be referred such questions as the Governor-General and Lieutenant-Governors of the Provinces should agree to submit.

And whereas, we, the undersigned, John Alexander Boyd, Louis Napoléon Casault, and George Wheelock Burbidge, have been duly appointed under the said Acts, and have taken upon ourselves the burdens thereof :

And whereas it was provided in and by the said Acts, that such Arbitrators, or any two of them, should have the power to make one or more awards and to do so from time to time ;

And whereas, by an agreement made on the tenth of April, 1893, on behalf of the Government of Canada of the first part, the Government of Ontario of the second part, and the Government of Quebec of the third part, it was, among other things, agreed by and between the said several Governments, parties thereto, that the following questions, among others, mentioned in the order of the Governor-General in Council of the twelfth day of December, eighteen hundred and ninety, be, and they are thereby referred to the said Arbitrators for their determination and award, in accordance with the said statutes, namely :

"The ascertainment and determination of the amount of the principal of the Common School Fund, the rate of interest which should be allowed on such fund and the method of computing such interest.

"In the ascertainment of the amount of the principal of the said Common School Fund, the Arbitrators are to take into consideration, not only the sum now held by the Government of the Dominion of Canada, but also the amount for which Ontario is liable, and also the value of the school lands which have not yet been sold."

And whereas certain questions respecting the Common School Fund were submitted to us the said Arbitrators, and among others a claim made on behalf of the province of Quebec that the Province of Ontario is liable to the Common School Fund for the following amounts :

"1. Moneys collected by Ontario which they have omitted to credit to the Common School Fund in their accounts as rendered	\$ 9,468 59
"2. Deductions made by Ontario on balances due in capital and interest on sales of land prior to the 30th June, 1867	260,445 19
"3. Deductions on balances due in principal and interest on sales made subsequent to the 1st July, 1867.....	2,975 99
"4. Balances due in principal and interest on lots sold prior to the 30th June, 1867, patents having been issued by the Ontario Government to the occupants of lots without payment of any money.....	7,270 62
"5. Amounts due in principal and interest on sales made prior to the 30th June, 1867, but subsequently cancelled and resold by Ontario at reduced rates.....	20,662 58

Total.....\$500,822 97 "

And whereas dealing with that claim, among others, and exercising our authority to make an award in respect thereof, we did, among other things (Sir John Alexander Boyd dissenting from so much of the award as made the Province of Ontario liable for any sums of money remitted to or not collected from the purchaser of any Common School Lands and for interest on any sums so remitted or not collected) award and adjudge in and upon the premises as follows, that is to say :

"That in computing the amount of principal money of the Common School Fund for which the Province of Ontario is liable, the following sums (paragraph two of Common School awards, number 2) shall be deemed to be and shall be treated in all respects as moneys received by the Province from or on account of the Common School Lands set apart in aid of the Common Schools of the late Province of Canada, that is to say :

"(a) Any sum of money due for principal or interest from any purchaser of said Common School Lands, remitted by the Province of Ontario to the purchaser, unless it be shown by the Province that such remission was made in a fair and prudent administration of the Common School Lands and Fund; and

"(b) Any sum of money due for principal or interest from any purchaser of said Common School Lands, at the time when letters patent for such lands were issued to him by the Province of Ontario, and not collected by the Province, unless it be shown by the Province that there was good cause for not collecting the same.

"That where in a fair and prudent administration of the Common School Lands any sale of such lands has been cancelled by the Province of Ontario, and the same resold at a price less than that first obtained, the Province shall not be liable for the loss resulting therefrom."

And whereas it is claimed on behalf of the Province of Ontario that the Common School Fund should be debited and the Province of Ontario credited with certain refunds of moneys collected, or received on deposit, on account of certain Common School Lands and credited to the said Fund, amounting in all to the sum of \$11,558.24.

And whereas the parties have proceeded further with the said claims made by the Provinces of Quebec and Ontario, and have filed statements showing the particulars thereof, and have submitted evidence in respect thereto, and in respect of the value of the school lands which had not at the date of the said Agreement of submission been sold;

And whereas we have heard the parties and considered the evidence;

Now therefore, we, the said Louis Napoléon Casault, and George Wheelock Burbidge, two of the said Arbitrators exercising the authority given to make an award at this time, and deciding, not according to strict rules of law, but upon equitable principles (the said John Alexander Boyd dissenting as hereinafter mentioned) do award, order and adjudge in the premises as follows, that is to say:

1. That subject to any revision and correction of the amount of the item in each case (which shall be ascertained by accountants to be appointed by the Arbitrators, in case the parties themselves do not otherwise agree) that may appear necessary and proper in the further taking of the accounts, that the Province of Ontario shall be debited with the sum of \$9,468.59 hereinbefore mentioned for monies collected on account of the Common School Lands and not credited to the Common School Fund in the accounts as rendered. This amount being the difference in sums omitted to be credited to that fund, and sums wrongly credited thereto, the several items as they appear in the statement prepared by Mr. Hyde and laid before us are (subject to such revision and correction) allowed as claimed by Quebec.

2. That subject to such revision and correction as aforesaid the Province of Ontario shall be debited and the Common School Fund credited with the several items and amounts shown in the said statement prepared by Mr. Hyde, that go to make up the amount of \$260,445.19 hereinbefore mentioned, and for which the Province of Quebec claims that the Province of Ontario is liable, with the exception of an item of \$359.31 which appears on page 54 of the said statement in connection with sale numbered 9762.

3. That subject to such revision and correction as aforesaid the Province of Ontario shall be debited and the Common School Fund credited with the several items and amounts shown in the said statement prepared by Mr. Hyde that go to make up the sum of \$2,975.99 hereinbefore mentioned, and for which the Province of Quebec claims that the Province of Ontario is liable.

4. That subject to such revision and correction as aforesaid the Province of Ontario shall be debited and the Common School Fund credited with the several items and amounts shown in the said statement prepared by Mr. Hyde that go to

make up the sum of \$7,270.62 hereinbefore mentioned, and for which the Province of Quebec claims the Province of Ontario is liable.

5. In respect to the amount of \$20,662.58 hereinbefore mentioned, and for which the Province of Quebec claims that the Province of Ontario is liable in respect of the cancellations of certain sales of land and the re-sale thereof at reduced rates, that the Province of Ontario, subject to such revision and correction as aforesaid, be debited and the Common School Fund credited with the following items and amounts:—

OLD SALE.		NEW SALE.		Amount of reduction made.
No.	Date.	No.	Date.	
1588	June 8, 1852	11384	Feb. 5, 1873	
1791	Oct. 9, 1852	11874	Jan. 28, 1830	\$246 37
2069	Jan. 5, 1873	11655	July 2, 1875	212 78
2743	Aug. 3, 1851	11890-92	May 5, 1881	62 90
3277	Oct. 1, 1853	11818	Oct. 26, 1877	456 67
3905	Jan. 2, 1854	11386	Feb. 23, 1873	139 94
4141	March 11, 1854	11783	March 9, 1873	361 82
4802	May 29, 1854	11754	May 19, 1876	83 30
4846	June 8, 1854	11595	March 23, 1874	124 57
4978	July 21, 1854	11579	Jan. 15, 1874	173 72
5009	July 5, 1854	11838	Nov. 5, 1887	30 43
5878	Oct. 4, 1854	11933	June 7, 1873	428 43
6090	Oct. 30, 1854	11414	Feb. 22, 1876	72 86
6273	Nov. 21, 1854	11743	Jan. 8, 1878	123 20
6444	Oct. 4, 1854	11422	Nov. 17, 1873	198 42
6467	Oct. 19, 1854	11443	Sep. 21, 1876	704 90
6659	Oct. 19, 1854	11768	Jan. 12, 1875	191 77
6699	Oct. 25, 1854	11635	Feb. 4-18, 1876	84 86
6708	Oct. 26, 1854	11741-44	Oct. 18, 1878	146 93
6739	Oct. 28, 1854	11848	Jan. 4, 1876	88 97
6798	Nov. 1, 1854	11739	May 16, 1873	186 81
6810	Nov. 2, 1854	11399	Feb. 28, 1877	150 20
6832-3	Nov. 11, 1854	11779	Jan. 31, 1879	98 09
		11860		185 20
		(Amount claimed \$336.20; allow only amount of reduction made by Mr. Pardee and interest.		
6846	Nov. 23, 1854	11623	Nov. 13, 1874	
6900	Nov. 6, 1854	11949	April 28, 1879	198 95
7472	Jan. 17, 1855	11823	Dec. 23, 1877	455 32
7484	Jan. 24, 1855	11763	July 24, 1876	133 15
7670	Sept. 2, 1854	11576	April 25, 1874	175 90
8884	Feb. 15, 1855	11745	Aug. 23, 1876	147 17
8173	March 19, 1855	11765	April 25, 1873	40 44
8260	April 7, 1855	11398	Jan. 27, 1875	145 37
8353	April 20, 1855	11639	Dec. 23, 1874	144 59
8690	Sept. 14, 1855	11820	Jan. 27, 1879	176 08
8743	Nov. 6, 1855	11909	Dec. 4, 1877	44 17
8794	Nov. 19, 1855	11819	March 30, 1874	25 1
8843	Oct. 11, 1855	11570	Feb. 19, 1877	77 50
8853	Oct. 19, 1855	11782	April 28, 1874	153 29
8892	Dec. 15, 1855	11598	Jan. 25, 1877	187 70
		11776	June 29, 1877	176 82
		11799		
				\$6,230 35

6. In respect to the claim made on behalf of the Province of Ontario to be credited with certain refunds hereinbefore mentioned and amounting to \$11,558.24, that subject to such revision and correction as aforesaid, that the Province of Ontario be credited and the Common School Fund debited with the following items and amounts:—

the Province

ed, and for
is liable in
proof at re-
l correction
e following

Amount of
reduction
made.

\$246 37

212 78

62 90

456 67

139 94

361 82

83 30

124 57

173 72

30 43

428 43

72 86

123 20

198 42

104 90

191 77

84 86

146 93

88 97

186 81

150 20

98 09

185 20

198 95

455 32

133 15

175 90

147 17

40 44

145 37

144 59

176 08

44 77

25 1

77 50

153 29

187 70

176 82

\$6,230 35

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Sale No.	Name of Person to whom Refund Paid.	Date when refund paid.	Lot.	Amount
8086	H. Wynne	26 Aug. 1868	20 in 10 Con. Kincardine	\$ 50 00
7862	Mrs. Janet Campbell	23 Dec. 1867	S ½ of 23, 1st Con. Grey	10 00
10918	John Vincent	22 July 1868	60 in Cranbrook	20 00
5166	Samuel Shelton	24 Oct. 1868	408rd Range, S.D.R. Kincardine	162 10
8225	George Laithwaite	29 Jan. 1869	S ½ S. of 23 & 24, 1st Con. Turnberry	41 63
5135	Alexander Buchanan	7 April 1869	23 in 8th Con. T. Egremont	36 70
7780	Donald McInnis	19 June 1869	14, 11th Con. T. Turnberry	299 15
3503	Martin Durkin	24 July 1869	N. ½ of 6 in 10 Con. of Township of Ashfield W. D.	47 20
8800	John McLeod	6 Dec. 1869	76 1st Con. T. Huron	24 80
2864	George Begg	19 Nov. 1868	18 in 12 Con. T. Huron	507 13
6392	Wm. McLeod for John McLeod	21 March 1870	1 & J in 6 Con. T. Bruce	563 52
8449	John Malcolm, George McNally and George Richardson for United Presbyterian Church	31 Aug. 1870	27 in 11 Con. Brant	336 60
7829	Adam Schaeffer	1 Feb. 1871	34 in 11 Con. T. Grey	3 70
4587	Wm. Grange	20 Feb. 1871	12 in 1st Con. T. Arran	79 93
6492	Archibald McKinnon	30 Jan. 1872	26 in 11th Con. T. Bruce	266 90
1789	Robert Simpson	18 May 1872	6 in 11 Con. T. Arran	383 50
7880	John McDonald	12 March 1873	16 & 17 in 8 Con. T. Turnberry	214 45
3005	Ley and McMurick for John O'Donald	19 July 1873	S. ½ 14 & N. ½ 15 in 4th Con. of T. Arthur	520 20
3245	Richard Benson	8 Nov. 1873	7 in 4 Con. Brant	299 45
4661	Frederic Proudfoot	10 April 1873	14 in 5 Con. T. Bruce	365 00
7446	William Daly	14 March 1873	55 in 3 Range South of Durham Road, T. Kincardine	78 00
4879	John A. McDonald	13 Nov. 1873	34 in Con. A. T. Brant	80 00
8545	D. McRae	17 Jan. 1874	6 in 14 Con. Ashfield, W. D.	8 80
4125	Malcolm Lamont	26 March 1874	27 in 3 Con. T. Grey	328 85
7963	Blakie and Alexander as agents of James Kennedy	11 May 1874	East ½, 2 Lot 10 in 9th Con. of Township of Sullivan	400 00
11571	R. Graham	25 June 1874	14 in 8 Con. T. Derby	285 45
4958	H. P. Dwight	17 June 1874	1 in 4th Con. T. Glenelg	179 40
11392	Johnson Graham	23 Nov. 1874	69 in 1st Con. T. Huron	150 00
4732	P. Dewar	23 April 1874	19 in 7 Con. T. Bruce	367 75
8957	Jones Bros. for William Nelson	21 Jan. 1875	30 & 31 10 Con. Normanby	388 75
8187	George Neibergall	19 March 1875	13 in 6 Con. T. Bruce	381 80
8523	Robinson and O'Brien for J. P. McCrindle	14 June 1875	67 1st Con. T. Huron	106 50
8979	S. Shelton	12 Jan. 1876	40 in 3 Con. S.D.R.T. Kincardine	20 00
8904	Wm. Nasmyth	1 Feb. 1876	17 in 5 Con. T. Grey	43 75
5466	Mary Jane Tolman	18 Aug. 1876	29 in 1st Con. T. Elma	1 90
7683	W. A. McLean for Hugh Blue	6 Dec. 1875	N.E. 20 acres of 15 in 14 Con. T. Elderslie	74 03
5801	R. J. Chipman	15 Dec 1876	31 in 9th Con. T. Elderslie	250 06
8807	W. J. Fenton	16 Jan. 1878	69 in 3 Con. T. Kincardine	23 00
11536	A. Johnson	23 Jan. 1878	N. ½ 16 in 10 Con. T. Arthur	9 00
6917	W. J. Fenton	12 Feb. 1878	68 3 Con. N.D.R. Kincardine	31 00
10821	Geo. B. Harris	3 May 1878	20 in 6 Con. T. Bruce	241 56
2003	Malcolm McKay	20 May 1878	2 in 6 Con. T. Huron	174 05
11813	Jos. Jeffrey	23 Oct. 1878	3 in 8 Arran, and 32 in 3 Con. T. Bruce	161 16
8136	A. McDonald	21 Jan. 1879	W. ½ 36 in 5 Con. T. Huron	11 00
7441	Henderson Small for John Acheson	25 Sept. 1879	E. ½ of 1 & W. ½ in 2, 18 Con. T. of Egremont	364 40
11805	Wm. Matheson	16 Mar. 1880	32 in 7 Con. T. Elma	390 00
11806	James Howe	23 Feb. 1882	33 E. side of Albert St. in Village of Southampton	18 00
9136	Mrs. Fanny Alecock	25 Nov. 1886	20 acres of 6 in 14 Con. T. Grey	19 50
3122	Jos. Hunter	—June 1888	25 in Con. B. of T. Brant	1 66
5762	Geo. Campbell	—July 1891	19 & 20 in 4 Con. T. Elderslie	36 00
11704				\$8,807 24

Of the said items and amounts the following are allowed, subject to the right of the Province of Quebec to contend in taking the accounts that in each such case an improper reduction of price or abatement of interest was made by Ontario :—

Sale No.	Name of person to whom refund paid.	Date when refund paid	Lot.	Amount
6492	Archibald McKinnon	30 Jan., 1872.	26 in 11 Con. T. Bruce	\$ c.
1769	Robert Simpson	18 May, 1872.	6 in 11 Con. T. Arran	266 90
8545	John A. McDonald	13 Nov., 1873.	34 in Con. A. T. Brant	333 50
4958	R. Graham	25 June, 1874.	14 in 8 Con. T. Derby	80 00
8137	P. Dewar	23 April, 1874.	19 in 7 Con. T. Bruce	285 45
2003	A. Johnson	23 Jan., 1878.	N. ½ 16 in 10 Con. T. Arthur	167 75
9136	A. McDonald	21 Jan., 1879.	W. ½ 36 in 5 Con. T. Huron	9 00
7545	Mrs. Fanny Alecock	25 Nov., 1886.	20 acres of 6 in 14 Con. T. Grey	11 00
4604	Jos. Hunter	— June, 1888.	25 in Con. B. of T. Brant	19 50
				1 66

7. That the said several sums, items and amounts to be so debited to the Province of Ontario and credited to the Common School Fund are subject, notwithstanding anything herein contained, to the deductions for management, and for the Upper Canada Improvement Fund mentioned in our Award of the sixth day of February, 1896, whenever the same fall within the rules therein in that behalf laid down

8. Sir John Alexander Boyd dissents from paragraphs two, three, four and five of this Award on the ground that the liability of Ontario to account for School moneys is to be measured by the terms of the Award of 1870. The ninth paragraph of that Award creating and constituting the sole basis of such liability is confined in express terms to moneys received from the sale of the lands. It appears not competent for the present Board to extend that obligation by the addition of words importing that Ontario is liable also for moneys which might have been received. Nor does it appear competent to extend that obligation obliquely by the application of "equitable principles," for these principles are not to be employed to add to the language, or to alter the meaning of the Award of 1870, which has been declared by the Supreme Court of Canada to be in this regard final and conclusive.

IN WITNESS WHEREOF we, the said JOHN ALEXANDER BOYD, LOUIS NAPOLEON CASALT and GEORGE WHEELLOCK BURBIDGE have hereunto set our hands and seals this twenty-first day of October, in the year of our Lord one thousand eight hundred and ninety-nine.

SIGNED, SEALED AND PUBLISHED }

in the presence of

(Signed) L. A. AUDETTE.

(Signed)
(Signed)
(Signed)

J. A. BOYD, [L.S.]
L. N. CASALT, [L.S.]
GEO. W. BURBIDGE, [L.S.]

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Amount	
	\$ c.
.....	266 90
.....	333 50
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